

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

J. T. GLOVER, III,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 03-11633-MAP
)	
GERALD MORRISSEY, ET AL,)	
Defendants)	

MEMORANDUM AND ORDER RE: MAGISTRATE JUDGE'S RULING
ON PLAINTIFF'S MOTIONS TO AMEND AND
DEFENDANTS' MOTIONS TO STRIKE
(Docket Nos. 17 & 18)

September 28, 2004

PONSOR, D.J.

Along with his Report and Recommendation to the effect that the defendants' Motion to Dismiss in this case should be allowed (which has been adopted by this court upon de novo review), Magistrate Judge Kenneth P. Nieman allowed defendants' Motions to Strike and denied plaintiff's Motions to Amend. Plaintiff has now filed an objection to the Magistrate Judge's actions, and the objections may be construed to cover his rulings on the non-dispositive motions to strike and to amend.

Under Fed. R. Civ. P. 72(a), motions to strike and to amend, being non-dispositive, are subject to review based upon a "clearly erroneous or contrary to law" standard. Certainly, none of the Magistrate Judge's rulings on any of these non-dispositive motions may be overruled based upon that standard. The Motions to Amend, he found, should be denied based upon futility. The failure of the plaintiff to rely upon cognizable facts, or specify facts supporting any claim of intentional misconduct on

the part of the defendants, as well as the failure of the plaintiff to submit a draft amended complaint curing the defects in the original, more than amply support the Magistrate Judge's rulings. Moreover, allowance of the Motions to Strike, given the failure of the plaintiff to authenticate many of the documents submitted, could hardly be described as either clearly erroneous or contrary to law.

For these reasons, to the extent that the plaintiff's objection is construed as extending to the Magistrate Judge's rulings on these non-dispositive motions, the objection is hereby OVERRULED.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge